State lawmakers are coming up with an answer to the question of who makes educational and health care decisions for children not living with their parents.

Nearly 3 million American children are cared for by relatives other than their parents. Child welfare agencies in many states rely on extended families, primarily grandparents, to provide homes for children who cannot safely remain with their parents. In fact, relatives care for 27 percent of children in foster care—about 107,000—according to the Adoption and Foster Care Analysis and Reporting System.

Children come to live with grandparents and other relatives for a variety of reasons, the most common ones being parents who abuse drugs or alcohol, suffer from mental illness or AIDS, abuse or neglect their children, or are in prison or deployed overseas.

Making decisions on children’s medical, educational and emotional needs can be difficult without legal custody or guardianship. Most state legislatures have responded with laws giving grandparents and other caregivers the authority to obtain medical, dental and mental health care and enroll kids in their neighborhood schools.

Most states require the approval of a parent or legal guardian unless the parent can’t be located or is unwilling or unable to care for the child. The laws allow parents to rescind their consent at any time as well. Most also specify that this authority should not be used to circumvent school residency requirements or to take advantage of a particular school program or athletic activity.

—Nina Williams-Mbengue

State Educational and Medical Consent Laws

For children not living with their parents, or whose parents are unable to care for them, 41 states and Washington, D.C., allow caregivers to enroll them in school or make health care decisions on their behalf even though they are not the legal guardians.

Source: NCSL, March 2012
Minnesota is taking a unique approach to the Environmental Protection Agency’s requirement that contractors and painters learn how to safely remove lead-based paint. Instead of focusing on the back end of the process—post-renovation inspections—the state is ensuring compliance at the front end—when building permits are issued.

Congress directed the EPA in 1990 to develop regulations to protect children from paint containing lead (found in most paint made before 1978) during home renovations. Children’s growing bodies easily absorb it and their nervous systems are sensitive to its damaging effects, which include brain damage, slowed growth, hearing problems, hyperactivity and headaches.

To ensure that contractors comply with the regulations, the EPA created the Renovation, Repair and Painting program in 2008 and asked states to ensure that all building contractors working on pre-1978 homes or facilities for children have at least one employee trained in handling lead-based paint.

So far, 12 states have adopted the EPA program, and several others are working on it. The state programs train contractors and require local building departments to inspect properties to ensure compliance.

In Minnesota, legislators passed a law in 2010 that requires contractors to prove they have certified workers trained to deal with lead-based paint before receiving permits.

“We decided to streamline the process by making sure contractors are properly trained before they work on buildings that could contain lead-based paint,” says the bill’s sponsor, Representative Karen Clark (DFL).

—Doug Farquhar
If an employer asks for your Facebook password, is it the same as if they’d asked to read your diary or open your mail? Some lawmakers think so, and are sponsoring bills to make such inquiries illegal.

“If 50 years ago, as part of the interview process, an employer said they needed to look through your mail or put a bug on your phone before they would hire you, it simply would not have been tolerated,” says Michigan Representative Paul Opsommer (R). He’s supporting a bill to prevent employers from requesting passwords to personal Internet accounts—including email, banking and social networking sites—in order to get or keep a job. Students also would not have to grant access to their social networking accounts in university applications. Opsommer believes the bill reflects a “very traditional and conservative stance to push back against the efforts of those looking to turn peoples’ lives into their own personal fish bowl just because the law has not kept pace with the digital age.”

Delaware, Illinois and Maryland were the first states to address this privacy concern. Delaware now prohibits public and private higher education institutions from asking students and student applicants for passwords or other account information.

Maryland and Illinois passed bans on employers requesting passwords and account information. Maryland’s law prevents employers from taking disciplinary action against employees or from not hiring applicants who refuse to disclose personal online information. Employers, however, are allowed to investigate employees who use a personal account for business purposes, to ensure they comply with legal and regulatory requirements. Illinois’ new law recognizes the right of employers to obtain information in the public domain about employees or applicants. It also allows employers to monitor employees’ email or electronic equipment owned by the employer, and to set workplace policies on the use of social networking sites.

Representative Jim Durkin (R) voted against the law in Illinois in part because it lacked exceptions for protecting proprietary information or trade secrets and may expose employers to legal liabilities. Calling it “a solution in search of a problem,” he says the issue arose after an Associated Press article described a few incidents of improper invasion of privacy. He believes the law does not appropriately balance the rights of employers with the rights of employees.

California, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, South Carolina and Washington introduced legislation in 2012. The California Legislature passed two laws that prohibit requesting passwords from employees and students.

The Ohio bill would prohibit employers from asking for social media passwords, but its sponsor, Senator Carleta Tavares (D), says it’s not meant to thwart employers’ efforts to search the public profiles of potential employees. But, she says, “requesting access to that individual’s personal profile reaches far beyond that scope.”

—Pam Greenberg

For more details on password protections, go to www.ncsl.org/magazine.
One quarter of American children—17.5 million—are eligible for child support payments, one of the largest sources of income for some families. Too often, however, parents don’t receive what is legally awarded them, leaving some to turn to government programs for help. Nearly 38 percent of custodial parents received either nutrition assistance, Medicaid, welfare, public housing or rent subsidies in 2009, according to the U.S. Census Bureau.

All states and territories have some kind of child support program to enforce support orders, collect payments, locate noncustodial parents, establish paternity, and set financial and medical support orders (such as health insurance contributions). State programs collected $32.8 billion in child support in FY 2011, 62.4 percent of the total due. Withholding support directly from paychecks accounted for 68 percent of all collections in 2011.

The federal government matches state expenditures and provides incentive funding to states that meet certain goals, such as establishing paternity, collecting support or saving costs. The congressional Office of Management and Budget found that for every dollar spent on child support programs, $5 was received back in support payments.

With half the children in poor families under child support orders, lawmakers are looking for new ways to prevent the need for child support enforcement altogether by:

◆ Engaging fathers with their children from birth,
◆ Supporting healthy family relationships and reducing family violence,
◆ Encouraging economic stability, and
◆ Ensuring families receive adequate health care coverage. —Katie Mason

Note: The collection rate is calculated by dividing the amount of child support paid by the amount of support due in a state.